

No. 15cr2821-BAS

August 9, 2017

San Diego, California

Transcript of Proceedings
BEFORE THE HONORABLE CYNTHIA BASHANT
United States District Judge

Court Reporter: Dana Peabody, RDR, CRR
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San Diego, California, 92101
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1 San Di ego, Cali forni a, August 9, 2017

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3 THE CLERK: Calling matter number 3, 15cr2821, United
4 States of America versus Ronald Grusd and Gonzal o Paredes,
02: 15 5 Cali forni a Imaging Network Medi cal Group, Will ows Consul ting
6 Group on calendar for moti on heari ng.

7 MR. SHEPPARD: Fred Sheppard and Valerie Chu on behal f
8 of the United States, Your Honor.

9 MS. CHU: Good afternoon.

02: 16 10 MR. MESEREAU: Tom Mesereau representing Dr. Grusd who
11 is present.

12 MS. APPELBAUM: Sharon Appel baum al so representi ng
13 Dr. Grusd.

14 MS. GOLDMAN: Jenni fer Gol dman appeari ng for Gi na
02: 16 15 Tennen for Mr. Parades today.

16 THE COURT: Okay. Thi s was set for a status because
17 my understanding -- has everyone been arraigned on the
18 superseding information? That's al l been taken care of.
19 There's a superseding indictme nt chargi ng 45 new counts. The
02: 16 20 defendants would like more time and to put the trial out. The
21 government is opposed.

22 I can tell you at thi s poi nt just because the defendants
23 had discovery detaili ng these addi ti onal charges doesn't mean
24 they were prepared to defend them at trial, and they had
02: 16 25 informed us, and both me and you, that they were going to be

1 out of pocket in another trial in August and September, and so
2 I don't think it gives them a whole lot of time to prepare for
3 the trial date that we had already set.

4 So I think continuance given the new charges is warranted
02: 16 5 in this case. I understand that the government has some
6 proposed dates. I don't know if the defense has had a chance
7 to take a look at those. Is there any opposition to those
8 proposed dates?

9 MS. APPELBAUM: Your Honor, we are fine with the
02: 17 10 proposed trial date of November 28, 2017. We would like to
11 discuss, though, the schedule that the government has proposed
12 regarding the motion in limine hearing. They put that out a
13 full month before. We were hoping to keep that just a week or
14 two before just like we had in the original schedule.

02: 17 15 THE COURT: How about two weeks before? I think
16 sometimes motion in limines can help people decide what they're
17 going to do at trial, help pare things down, and I think it's
18 better for everyone if you know so that you can not have to
19 scramble in the last week. Two weeks before?

02: 17 20 MR. SHEPPARD: That's fine, Your Honor.

21 THE COURT: Does that work for us?

22 THE CLERK: November 13th.

23 THE COURT: How about November 13 for the motion in
24 limine, and then you've already filed a motion. Can we hear
02: 18 25 that on the 25th? The government hasn't filed a response yet,

1 a motion to dismiss.

2 MR. SHEPPARD: That's what we propose as well as we
3 have informed counsel and provided the discovery already with
4 regards to a 404(b) motion we intend to file or notice up, and
02: 18 5 so I imagine -- we'd like to address both those matters at that
6 time.

7 THE COURT: Any objection to the 25th? Does that
8 work?

9 MS. APPELBAUM: Okay, Your Honor, that sounds fine.

02: 18 10 THE COURT: Okay. I'll grant the motion to continue.
11 We'll set this for -- on motions, the motion to dismiss as well
12 as if the government has additional motions to be heard on the
13 25th at 2:00. 2:30. At 2:30. We'll set the motions in limine
14 on November 13th at 10:00, and we'll set it for trial on
02: 18 15 November 28 at 9:00. And just for the record, the government
16 requests that this be a firm date. It will be a firm date if
17 you stop moving the target. And so I can't guarantee if
18 something new suddenly comes up and there are new charges or
19 there's suddenly some new thing, obviously I'll have to address
02: 19 20 that -- cross that bridge when we come to it.

21 At this point I intend to go forward with the trial on that
22 date. I don't see any reason for it not to go forward on that
23 date unless you bring to my attention something I'm not
24 currently aware of.

02: 19 25 MR. SHEPPARD: So on somewhat related to that point,

1 counsel had talked about the possibility of noticing up or
2 requesting an expert in some field related to the charges. In
3 order to adequately address that as well as the advice of
4 counsel defense, I'm asking so that those can be addressed at
02: 19 5 least at the in lim and we would be able to have the chance if
6 Your Honor would set a date for the advice of counsel discovery
7 and an expert notice for both sides, us as well, sometime --

8 THE COURT: I think --

9 MR. SHEPPARD: -- in October.

02: 20 10 THE COURT: -- the disclosure of expert witnesses as
11 well as the advice of counsel defense should be in enough time
12 so that if there is a motion in limine to exclude either side's
13 expert, we can address that motion at the motion in limine, and
14 that would go for both sides, if the government has any expert
02: 20 15 witnesses that the defense feels are not appropriate or the
16 defense has experts that the government feels are not
17 appropriate. So if your motions for the motions in limine are
18 due two weeks before --

19 THE CLERK: The 30th.

02: 20 20 MR. SHEPPARD: October 30th.

21 THE COURT: -- October 30th, how much time would you
22 like to have that in advance so that you can prepare a motion
23 in limine to exclude if you don't? Two weeks?

24 MS. APPELBAUM: So, Your Honor, we're talking about
02: 20 25 the expert issue witness right now, and we'll get to the advice

1 of counsel in a second.

2 THE COURT: Well, it would be the same thing. I think
3 the advice of counsel, if there are any motions in limine that
4 have to do with the advice of counsel, I think probably the
02: 21 5 timing would be about the same.

6 MR. SHEPPARD: And in all honesty, I could almost
7 assuredly there will be a motion with regards to advice of
8 counsel, if not to both defendants, certainly with regard to at
9 least one, Mr. Paredes in that regard, and so --

02: 21 10 THE COURT: How about October 15th for disclosure of
11 any expert witnesses and disclosure of any reliance on an
12 advice of counsel defense. The 16th would be the Monday, by
13 the 16th, the close of business on the 16th, and that way
14 you'll have time to digest what has been disclosed and file
02: 21 15 your motions in limine by the 30th if whatever has been
16 disclosed is deserving of motions in limine.

17 So I will order that either side -- both sides disclose any
18 expert witnesses together with a brief summary of what that
19 expert witness is an expert in or is planning to talk about as
02: 22 20 well as if the defense is planning to rely on an advice of
21 counsel defense, if they could make that disclosure by the 16th
22 of October. That way motion in limine will be due the 30th of
23 October, and I will hear the motions in limine on November 13th
24 at 10:00. Otherwise, I will see you on September 25th at 2:30
02: 22 25 for the other motions.

1 MS. APPELBAUM: One other portion of the motion that
2 we had made a reference, we had made a request for early
3 disclosure of a witness and exhibit list from the prosecution
4 in this case because this case is just so voluminous and there
02: 22 5 are so many exhibits.

6 THE COURT: Can you do that by the 16th of October?

7 MR. SHEPPARD: I think we can do it right around the
8 in limine date, but the reason I say it is -- I know
9 Your Honor's worried about moving targets, et cetera. I can
02: 22 10 assert that individuals have even still continued to come
11 forward to offer evidence against these defendants.

12 THE COURT: I'll tell you what. I'll order that you
13 disclose it by the 16th of October. If there are witnesses or
14 exhibits that you then discover between October 16th and the
02: 23 15 motion in limine date that you would like to add, you can bring
16 those to my attention, and we can discuss why they're being
17 disclosed at that late a date. I'm not foreclosing bringing
18 them in at that point in time.

19 MR. SHEPPARD: And just so I know what's to be
02: 23 20 expected with regards to exhibits, Your Honor, you're not
21 talking about a -- Exhibit 1 is this page -- are we talking how
22 we do in our trial memo, that Exhibits B, claim files, of
23 these --

24 THE COURT: Correct.

02: 23 25 MR. SHEPPARD: Okay. I'm just making sure -- I don't

1 think we can pull this and prep that far in advance, label
2 everything.

02: 23 3 THE COURT: You don't have to have them all marked. I
4 just want the defense to know what in general you are planning
5 to introduce in your case in chief.

6 MR. SHEPPARD: That's fine.

7 MS. APPELBAUM: Like the Bates stamps that you already
8 have, if you would just let us know what you're planning on
9 using.

02: 24 10 THE COURT: Or it can be general category. We plan to
11 admit all the -- I'm using --

12 MR. SHEPPARD: Claim files.

13 THE COURT: -- claim files of this particular
14 individual, something along those lines.

02: 24 15 MR. SHEPPARD: Thank you.

16 THE COURT: Okay. We will see you then the 25th of
17 September at 2:30 for motions.

18 MR. SHEPPARD: And just for everyone -- before
19 everyone departs, for the record, we'll be submitting to
02: 24 20 counsel a joint motion to exclude time under the Speedy Trial
21 Act.

22 THE COURT: I find that time should be excluded.
23 They've just filed a motion. I haven't ruled on it yet. At
24 least it will be excluded until the 25th of September, and we
02: 24 25 can discuss the 25th of September where we're going to go from

1 there. Okay?

2 MR. SHEPPARD: Thanks, Your Honor.

3 THE COURT: Thank you.

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6 C-E-R-T-I-F-I-C-A-T-I-O-N

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8 I certify that the foregoing is a correct transcript from
9 the record of proceedings in the above-entitled matter.

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11 Dated September 17, 2017, at San Diego, California.

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14 /s/ Dana Peabody
15 Dana Peabody,
16 Registered Diplomat Reporter
17 Certified Real time Reporter
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